

Via Electronic Filing

December 20, 2007

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: ***Ex Parte* Communication: MB Dockets No. 87-268; 07-91**

Dear Ms. Dortch:

On December 19, 2007, I, representing Capitol Broadcasting Company, Inc. and Hubbard Broadcasting, Inc., met with Rudy Briocche, Legal Advisor to Commissioner Jonathan Adelstein. We discussed a number of issues raised in the DTV Third Periodic Review and in the numerous DTV Table of Allotments Petitions for Reconsideration.

Like MSTV has noted in its recent *ex partes*, I raised concerns that the complexity and rigidity in the technical and procedural rules to be established in the DTV Third Periodic proceeding could cause delays for broadcasters and the Commission. Our discussion focused on the following:

- Broadcasters need regulatory flexibility as we approach the February 17, 2009 analog cut-off date – specifically the need for the Commission to allow notifications under blanket Commission rules eliminating much of the need for waivers.
- Stations moving back to their analog channels should be allowed to use their analog antenna patterns. The FCC should avoid individual waivers and allow such stations to move back to their analog channels and antenna pattern where:
 - The station will be using its existing NTSC antenna and antenna pattern,

- For the 12-month period after February 17, 2009, the station's antenna pattern:
 - Will not cause more than 2% interference to any surrounding station, *OR*
 - Does not exceed its Table B pattern by more than five miles in any direction, *AND*,
- The station shall comply with the 0.5% interference standard no later than February 17, 2010. (The 0.5% interference standard would not be applicable to either the 5-mile or 2% temporary interference standard during the 12 months after the transition date, February 17, 2009.)
- Stations with digital side-mounted antennas and analog top-mounted antennas, should be required to turn off their analog transmission on February 17, 2009, but be allowed to remain broadcasting on their digital side-mounted antennas, thereby providing service to their current digital audience. For many stations, it is impossible for them to move their digital facilities from a side-mounted antenna to a top-mounted antenna during the winter months.
- The need for the FCC to lift the filing freeze on maximization applications in a timely fashion, in order to allow stations to purchase equipment.

I also stressed the urgency of completing the above-referenced proceedings to allow stations time to purchase equipment. I noted that stations face a danger of being unable to purchase and install equipment before the DTV transition date, if the Commission's process is not completed forthwith.

Respectfully submitted,

/s/

Dianne Smith

cc. Rudy Brioché
Renee Crittendon